

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES RAY BLACK, JR.,)
)
Petitioner,)
)
v.) Case No. 4:14 CV 1536 RWS
)
CINDY GRIFFITH,¹)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before me on Petitioner James Black's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. I referred this matter to United States Magistrate Judge Noelle C. Collins for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). Judge Collins filed her recommendation that Black's habeas petition should be denied. Black filed a generalized objection to Judge Collins' report. I have conducted a *de novo* review of Black's claims and have carefully reviewed the record in this case. Based on that review, I agree with Judge Collins that Black's petition should be denied.

Black was convicted of first degree assault of a law enforcement officer and armed criminal action. The trial court found Black to be a prior offender and sentenced him to life for the assault and to 25 years for armed criminal action, the

¹ Petitioner is currently incarcerated at Potosi Correctional Center in Mineral Point, Missouri. Cindy Griffin is the Warden and proper party respondent.

terms to run concurrently.

Black raised five grounds for relief in his habeas petition (one of the grounds was construed as two grounds). Judge Collins' recommended that four of the grounds be denied because they were procedurally defaulted and/or not cognizable in a habeas proceeding. Judge Collins' reviewed one ground on the merits and found that it failed to support a claim for constitutionally ineffective assistance of counsel. Black filed generalized objections to Judge Collins' report asserting that his counsel let him down. I have reviewed Black's grounds for relief and agree with Judge Collins that they have been defaulted or do not have merit. Moreover, I agree with Judge Collins that Black's motion to supplement his petition should be denied because his additional claims are untimely. As a result, I will adopt Judge Collins' report and recommendation and deny Black's petition.

Certificate of Appealability

I have considered whether to issue a certificate of appealability in this matter. To grant a certificate of appealability, I must find a substantial showing of the denial of a federal constitutional right. See Tiedeman v. Benson, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a court could resolve the issues differently, or the issues deserve further proceedings. Cox v. Norris, 133 F.3d 565, 569 (8th Cir. 1997) (citing Flieger v. Delo, 16 F.3d 878, 882-83 (8th Cir. 1994)).

I believe that Black has not made such a showing on the grounds raised in his petition. Therefore, I will not issue a certificate of appealability.

Accordingly,

IT IS HEREBY ORDERED that Judge Collins' report and recommendation is adopted and sustained in its entirety.

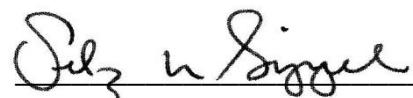
IT IS FURTHER ORDERED that Petitioner James Ray Black, Jr.'s Petition for Writ of Habeas Corpus is **DENIED**.

IT IS FURTHER ORDERED that Black's motion to file supplemental pleadings [9] is **DENIED**.

IT IS FURTHER ORDERED that the Court will not issue a certificate of appealability.

IT IS FURTHER ORDERED that the Clerk of Court shall substitute Cindy Griffith for Troy Steele as the Respondent in this matter.

A separate judgment in accordance with this Memorandum and Order is entered this same date.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 25th day of September, 2017.